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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,308	09/25/2006	Michael Gougel	P/1830-23 V1455	6751
2352 7590 02/26/2008 OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403				
EXAMINER				
PRICE, ELVIS O				
ART UNIT		PAPER NUMBER		
1621				
MAIL DATE		DELIVERY MODE		
02/26/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/599,308

Applicant(s)

GOUGEL ET AL.

Examiner

ELVIS O. PRICE

Art Unit

1621

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-5 is/are rejected.
- 7) ☒ Claim(s) 2 and 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF 100)
- Paper No(s)/Mail Date 9/25/06, 11/16/06

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claims 1-6 are pending in the application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 and 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kallenbach et al. {US Pat. 5,427,689}.

Kallenbach et al. teach a process for separating (extracting) polar substances, such as ethanol, from a solution using an aluminum-zirconium borate salt to adsorb the ethanol from the said solution (see solution b in Example II and Table I). The difference between the presently claimed invention and what is taught by the Kallenbach et al. reference is that the Kallenbach et al. reference does not exemplify heating the salt to release the adsorbed ethanol. However, Kallenbach et al. does teach that absorbed

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methanol can be quantitatively recovered from the aluminum-zirconium borate salt by heating (see Col. 5, lines 1-5).

Thus, it would have been prima facie obvious to one having ordinary skill in the art, in view of the Kallenbach et al. reference, to extract ethanol from a solution as presently claimed because Kallenbach et al. teach a similar process for removing ethanol, inter-alia, from solution by way of contacting the ethanol solution with an aluminum-zirconium borate salt. The particulars of present claims 4 and 5 would have been obvious because, given the teachings of the Kallenbach et al. process, it would not be unreasonable for persons having ordinary skill in the art to envisage removal of ethanol from a mash and/or conducting a flow process of sensing the ethanol content before and after it passes through the salt bed upon removal of the ethanol from the solution.

Although Kallenbach et al. does not exemplify heating the salt to release the ethanol, one having ordinary skill in the art would have been motivated to recover the ethanol from the salt by way of heating considering the Kallenbach et al. teach that similar alcohol, methanol, can be quantitatively recovered as such from the salt. Therefore, the presently claimed invention would have been obvious to one having ordinary skill in the art.

Allowable Subject Matter

Claims 2 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of

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the base claim and any intervening claims. The prior art of record does not teach or fairly suggest using $\text{Mg}_3(\text{PO}_4)_2$ as a salt for removing ethanol from solution.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELVIS O. PRICE whose telephone number is (571)272-0644. The examiner can normally be reached on 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne L. Eyler can be reached on 571 272-0871. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elvis O. Price/
Primary Examiner, Art Unit 1621